

Keaupuni: A Hawaiian Sailor's Odyssey

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HAWAIIAN SAILORS, considered among the best in the eighteenth and nineteenth century maritime industry, were prized when crewing a vessel. Their career carried myriad risks: the physical risks of working with dangerous equipment at sea far from medical help; the financial risks of falsified records making a voyage appear a failure to eliminate the crew's share of profits; the risk of being treated as an expendable cog. There were emotional risks too: years of being away from home, away from those you loved, and away from those with whom you could have an intelligent conversation in your own language. There were also the rewards every sailor knows: the taste and smell of the sea, the sun rising over the ocean, a star-filled sky, the deck under your feet, meeting new people and seeing new places. For whalers, the thrill of the chase was both the job and the reward.¹

An additional risk for Hawaiian sailors was unwitting participation in the slave trade. The 1818 Slave Trade Act and preceding laws prohibited U.S. vessels from involvement in slave transportation. To cover a slave vessel's true purpose, it might be fitted out as a whaler, sign on an unsuspecting whaling crew, then openly leave New Bedford or Boston harbor. Once at sea, the crew could not leave, and could do little to oppose the captain's orders. Between 1839 and 1862, U.S. federal

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prosecutors brought dozens of slave transportation cases to court.² In two such cases, an unlikely trio came together to obtain guilty verdicts: a Hawaiian sailor, a socially prominent Boston federal prosecutor, and a law student from Hawai'i, the son of missionaries. Each brought needed knowledge, experience, and tenacity to the task.

Sometime in June 1860, whaleman Keaupuni, known in the maritime world as Joseph Mowee (Maui) decided it was time to return to the sea. He signed on with the *Tahmaroo*, a ship that had many whaling voyages in its history.³ The *Tahmaroo* had visited Honolulu and Lahaina ports repeatedly since October 1853⁴ and most recently on April 6, 1859.⁵ The ship home ported in the whaling centers of Fairhaven and New Bedford and showed a good record of many whales taken.⁶ Nothing about the planned voyage would have appeared unusual to the 16-year veteran.⁷ Keaupuni signed on in New Bedford as one of three boat steerers, a position of some responsibility, but also of risk. The boat steerer functioned as a petty officer, in charge of the small crew that went out to do battle with the whale. On July 3, 1860, the *Tahmaroo*, with ship's owner and experienced whaler Jabez S. Hathaway as captain, put to sea, to all outward appearances on a voyage seeking whales.⁸

While the *Tahmaroo* was at sea, Abraham Lincoln was elected president of the United States, November 6, 1860. The Republicans, as the party in power, appointed U.S. district attorneys. In 1861, at Boston, Massachusetts, this brought to office a long-time anti-slavery advocate, former Free Soil Party member and now Republican, Richard Henry Dana, Jr. He was not the universal choice. Some opposed his appointment.⁹ Dana had defended several runaway slaves captured under the 1850 Fugitive Slave Act, and at risk of return.¹⁰ While the Act was much hated by Boston abolitionists, the city's wealthy fabric mill owners depended on slave-generated, low-cost Southern cotton. Dana's actions earned him a beating in one case and some social shunning.¹¹ Dana had interrupted his Harvard Law School education in mid-1834, going to sea until mid-1836. He later wrote up his experience for popular reading in *Two Years Before the Mast*. That story detailed his adventures, including experiences that helped him develop a respect for "Sandwich-Islanders" who were often "called by any names which the captains or crews may choose to give them." "But by whatever names they might be called, they were the most inter-

esting, intelligent, and kind hearted people that I ever fell in with." Necessity caused him to learn some Hawaiian¹² and obtain facility in "sailor english" or pidgin.¹³ Now he would use those experiences to convict would-be slavers.

The third person in the trio was Albert Francis Judd, in 1860 a young college student at Yale University. Born in Hawai'i, schooled first at Punahou, he then traveled to America and Yale for his higher education. Protestant missionary Gerrit P. Judd wanted his son to return to Hawai'i equipped to contribute to the Christian effort. Now that the

CREW LISTS OF VESSELS SAILED.

Ship Tahinaroo, Capt. Jabez S. Hathaway, sailed from this port July 3d, 1860, for the Atlantic Ocean. The following persons compose her crew:

Luther Whitmore, first mate; Andrew Austin, second mate; Henry Orr, of Lynn, third mate; William H Post, fourth mate and boatsteerer; Michael Wering, Newcastle, Pa, Joseph Mowee, boatsteerers; John Oppo, cooper; David Gordon, Albany, NY, steward; Jeremiah H Crowley, New York City, Benjamin Rose, Norristown, Pa, Thomas C Webb, West Chester, NY, Henry Roehenbergen, Baden, Germany, Lucius Traver, Elmira, NY, Isaac Bailey, Saratoga, N Y, Chas Homer, Philadelphia, Peter Farrell, Brooklyn, NY, Henry Lambert, Syracuse, NY, Christopher Dolan, Troy, NY, John Cottle, New York City, George Abbing, Canajohare, NY, James Borden, Manajunk, Pa, James A Smith, Westfield, N Y, F C Smith, Brooklyn, N Y, Edward Young, New York City, and Hezekiah Farnham, seamen.

The Whalers' Shipping List

NEW BEDFORD:
TUESDAY MORNING, JULY 10, 1860.

American Board of Commissioners for Foreign Missions (ABCFM) no longer provided financial support, the young Judd would need to earn his living with a marketable skill. An exchange of long-distance letters between father and son discussed options with medical doctor G. P. Judd who cautioned his son not to study medicine because it would not provide much income. Frank, as his family called him, should study a profession with a future, like law.¹⁴ While away in America, his son must not lose his Hawaiian language facility that would be so vital on return to Hawai'i. Father Judd regularly mailed Hawaiian language newspapers to his son instructing him "keep up your Hawaiian. Read it aloud for practice."¹⁵ With his Yale degree finished in 1862, A. F. Judd transferred to Harvard Law School. Because it was too expensive and time consuming to return to Hawai'i between class periods, he extended his education with travel. He also took an active interest in the Civil War's progress and attended pivotal events such as the "colored meeting" at Tremont Temple Baptist Church, Boston on January 1, 1863, for the reading of the Emancipation Proclamation. He later returned to hear a speech by Frederick Douglass.¹⁶ In June 1863, nearing the end of his studies, Judd was thinking of finals and his return to Hawai'i.

As Richard H. Dana, Jr. settled into his duties as U.S. Attorney and Judd "read law," Keaupuni found things a bit odd on the *Tahmaroo*. The ship left New Bedford but soon anchored off a lighthouse, where more crew boarded, keeping their names from appearing on the public shipping articles. At first, the voyage did chase and take a few whales, processing them as usual. Shortly after the voyage departed from the usual routes and routines. The vessel headed for the Cape Verde Islands off western Africa. A new man emerged as captain, John C. Cook. Two passengers came on board. The schooner *Thriller* joined them and sailed in tandem, then disappeared to return with an unusual quantity of rice and two boxes. The purpose of the voyage became clear as the crew heard Captain Cook reveal the boxes held \$3000 in gold to buy slaves. The whaling crew was powerless to protest, with no way to leave the ship as it proceeded to the African coast. The voyage abandoned all pretense of whaling, not pursuing whales when seen. Cook ordered construction of tubs to hold food and water for the expected captives. Seeing a Spanish ship patrolling the African coast, Captain Cook had barrels filled with hundreds of

handcuffs brought out of the hold and hidden among the barrels of whale oil on deck. When the patrol boarded, the ruse worked and the patrol sounded no alarm. When close to the coast, Keaupuni, as boat steerer, was compelled to lead the crew rowing Captain Cook to a meeting on shore. He heard discussions between Cook and a French slave trader who offered 400 men as slaves. Cook protested it was not enough to make the voyage pay, he needed 1100 captives. Despite several negotiating discussions among Captain Cook, Captain Hathaway, and the Frenchman, they failed to make a deal. Frustrated, Cook took the *Tahmaroo* to the Azores off Portugal, and ported at Faial, or Fayal, Island to consider his next step. Some crew, including Keaupuni, were able to slip away in port. The *Tahmaroo* made a stop in Cuba to negotiate delivery of slaves. The voyage returned to Africa, but never managed to obtain slaves and ended after taking a few more whales as cover.¹⁷ In December 1861, Captain and owner Hathaway returned to Fayal and sold the *Tahmaroo*,¹⁸ effectively leaving behind all physical evidence of slaving and scattering the witnesses by discharging the crew. Captain Jabez S. Hathaway returned to the U.S. as a passenger on the vessel *Azor*, landing at Boston on January 10, 1862.¹⁹

We do not know when or how Keaupuni found his way to Boston, but in August 1862, he was, in modern terms, detained as a material witness. He would be housed at the Boston jail for 472 days and would testify in several trials.²⁰ To Boston U.S. District Attorney Richard Henry Dana, Jr., "Joe Maui" would become a witness with whom Dana the sailor could form a special bond, and could question in a language the defense could not understand.

Around the same time, Harvard graduate Dana developed a relationship with Harvard student Judd. There were social visits helpful to a bachelor student such as an 1863 New Year's Day dinner.²¹ Over the years, Dana hosted other Harvard students and other Hawai'i folks abroad,²² so there may not have been any pre-planning in getting to know Judd. The acquaintance did prove useful, however, when Dana determined to hold both Zeno Kelley, who fitted the ship out for the voyage, and Captain John Cook accountable for planning a slaving voyage by using Keaupuni's testimony.

America had lived through years of turmoil while the *Tahmaroo* was at sea. Several Southern states seceded from the Union and war began between North and South. Using an American ship to move slaves for

sale in Cuba was illegal when the *Tahmaroo* left New Bedford, but now it was unpatriotic as well. As news of whale ships used as cover for slave trading became widely known, New Bedford sought to be “redeemed by the fact that the money and means used in the business have been furnished by parties in New York.” The war created a climate in which U.S. Attorney Dana had wide support when he prepared to prosecute the major actors in the *Tahmaroo* plan to hunt slaves, not whales.

Despite the attempts to shed evidence in the Azores, the crime somehow was reported. U. S. Deputy Marshal Cobb arrested Captain Hathaway on January 16, 1862, just six days after his return to Boston. Also taken into custody was Zeno Kelley. Held for questioning, both pled not guilty with bail of \$5000 (\$100,000+ today) for Hathaway and \$8000 for Kelley.²³ The arrests received wide publicity in several states and, perhaps as a cautionary tale, prominent reporting in the whaling trade papers.²⁴

At first, it appeared the conspirators had escaped the law. U.S. Commissioner A. S. Cushman questioned the men, examined whatever evidence was then available, and dismissed the charges on February 21, 1862.²⁵ Kelley and Hathaway were surely relieved. Their arrest followed the much-reported case of Captain Nathaniel Gordon, who was convicted of transporting slaves and sentenced to death. After President Lincoln denied Gordon’s request for a pardon, he attempted suicide. Discovered before he died, and partly revived, his execution by hanging was messy. Reporting of Gordon’s case often appeared in the same news columns with updates on Kelley’s case.²⁶

Undeterred, prosecutor Dana brought new charges against Kelley for fitting out a ship under the Slave Trade Act of 1818 and a trial began June 25, 1862, before Judge Peleg Sprague. H. F. Durant and E. L. Barney defended Kelley. Boston newspapers told readers that Luther Whitmore, first mate on the *Tahmaroo*, was the prosecution witness “from whom important revelations are expected.”²⁷ As Dana questioned the witness in court, however, his testimony differed from prior statements to the examining U.S. Commissioner. In testimony the following day, the Commissioner used his notes to refute Whitmore’s now unhelpful testimony by quoting his prior statements.²⁸ When court officers searched for Whitmore to compell his appearance at court to explain the variance in testimony, they found he had left the city. New Bedford merchants who had put up Whitmore’s \$3500 bond were now

liable.²⁹ With the star witness missing, the judge called a recess with the hope of resuming the trial in the September 1862 term.³⁰

It appears that trial did not resume, but Dana again brought new charges on at least seven counts in the spring 1863 term. On April 7, Blake and Barney defended Zeno Kelley, again before Judge Sprague. It is unclear if Keaupuni testified at this hearing, but he is the likely witnesses who testified to the "articles and implements which were on board and which slavers always carry, but which whalers do not."³¹ Testimony and arguments continued until April 14. The next day, the jury found Kelley guilty of "fitting out the *Tahmaroo* as a slaver . . . on the seventh count . . . aiding, assisting, and knowing that the vessel was to be used for such purpose." Kelley's attorneys immediately appealed the verdict, filing a "motion in arrest of judgment."³² Judge Sprague heard the appeal in July 1863 and overturned the verdict on the points argued by the defense relating to the wording of the indictment.³³

District Attorney Dana, surely disappointed, could take comfort in one complete success. John C. Cook had come on board after the *Tahmaroo* left port to captain the slaving portion of the voyage. Dana used the threat of Keaupuni's translated testimony to bargain with Cook.³⁴ Originally charged with six counts on June 4, 1863, Cook pled guilty to one charge, "being employed upon a vessel engaged in the slave trade."³⁵ In return, the government agreed to *nolle prosequi* (not prosecute) the other five charges.³⁶ Law student Albert F. Judd was in the public gallery of Judge Nathan Clifford's court as Cook pled guilty.³⁷ When Dana bargained with Cook, Judd's availability as Keaupuni's translator was part of the threat. Five days later, Judge Clifford fined Cook \$5 (\$90 today) and sentenced him to two years in the New Bedford jail.³⁸

On September 24, 1863, when Dana had Zeno Kelley arrested in New Bedford and returned to Boston,³⁹ he had a plan to convict him. Dana's strategy to use Keaupuni's testimony against Kelley was part stagecraft, part legal positioning. On October 19, 1863, a court officer interrupted Albert F. Judd, head down over legal books in the Harvard law library, to serve him with a subpoena to appear in court.⁴⁰ Judd was to appear not in the moot court case he was preparing to argue as part of his closing Harvard Law School graduate exercises, but in U.S. District court. The subpoena came with an unusual docu-

ment, a letter of explanation: "your services as an interpreter . . . are needed."⁴¹

For almost-lawyer Judd, the courtroom work was a valuable experience, "learning the applications of the rules of evidence as well as refreshing my knowledge of Hawaiian . . ."⁴² For Keaupuni, it was surely a relief. Finally, here was someone to whom he could speak in complete and cogent Hawaiian sentences, and have his evidence transmitted in intelligent sounding English sentences. For Dana, it was a method of presenting clear evidence to the judge and jury while making the defense attorney think it was his idea.

After some delays, the trial began in Judge Nathan Clifford's court on October 22, 1863. After Dana presented several English-speaking witnesses to establish the purchase and fitting out of the *Tahmaroo*, he called Keaupuni to the stand under his whaling name of Joseph or Joe Maui. Dana offered Judd as interpreter. Judd complained to his father that the defense attorney began "catechizing me and somewhat severely, I thought," but that the judge intervened to declare Judd competent. The defense attorney, Mr. Blake, attempted to disqualify Keaupuni's testimony by questioning "his knowledge of the Bible, God &c" sufficient to take a sworn oath on the Bible. The tactic failed with Judge Clifford, who declared the questioning "unnecessary and the presumptions were in favor of his credibility." Judd took this to show the American judicial system accepted Hawaiians as civilized Christians, as opposed to the Chinese who were not accepted as sworn witnesses in California.

Objections cleared away, District Attorney Richard H. Dana, Jr., calling on his two years before the mast, began by questioning Keaupuni in sailor-English. Dana and Keaupuni proceeded with comfort. Judd may have been the only listener able to detect that some of Dana's questions were what Judd's professors would have termed "leading the witness." Kelley's defense attorney could not understand the questions or the answers and now demanded Judd's interpretive services to which he had earlier objected. Judd began translating first Dana's questions, then Keaupuni's answers, and later the cross-examination by the defense attorneys. On October 22 and 23, Judd stood all day translating, exhausted as court closed. Now that he was in a pivotal role, defense attorneys changed their approach and at day's end began conversationally making "enquiries about the Islands with

the evident design of keeping on terms with me." Keaupuni's October 26 testimony was perhaps more damaging to the defense attorneys than to defendant Zeno Kelley. A defense attorney had counseled Keaupuni to pretend no knowledge of English and to speak only Hawaiian.⁴³ Judd returned to court on October 28, now as an observer, to hear closing arguments by Blake (four hours) and Dana (two hours).⁴⁴ The jury found Kelley guilty and his lawyers immediately filed a motion for an arrest of judgment as they had in the earlier case. On November 12, 1863, Blake and Dana argued from 2:30 p.m. until 7:30 p.m. before Judge Clifford, with law student Judd in the gallery. Clifford found for the prosecution on each point and the next day sentenced Kelley to a fine of \$1000 and four years imprisonment. Judd approved, "Such be the fate of all those who, in any manner assist in the diabolical traffic of men!"⁴⁵

Now Keaupuni's long wait in the Boston jail would end. Although Judd's official duties were over with his last translation on October 26, the two men had developed a relationship. Judd, although younger by about ten years, felt a protective concern for Keaupuni. Keaupuni found in Judd an advocate who could represent him in the American system. Judd recruited James Walker Austin, a Hawai'i resident visiting America with his family, to help get Keaupuni away from Boston physically and financially safe.

During the trials, Judd visited Keaupuni repeatedly at the jail, taking him the accumulated Hawaiian language newspapers Gerrit Judd had sent his son. Keaupuni stayed up until 1 a.m. feasting on news from home.⁴⁶ The day following Zeno Kelley's sentencing, Judd visited Keaupuni and talked to the U.S. Marshall at the Circuit Court about his release.⁴⁷ Considering his testimony had been pivotal in convicting Zeno Kelley, and that others in the scheme were free, Keaupuni feared retribution. He decided to put Boston and America behind him. He wanted to return to Hawai'i, quickly by steamer as a passenger. He would not wait for a working voyage.⁴⁸ On Monday, Judd returned to the jail and discussions with the sheriff resulted in "arrangements." On November 17, 1863, Keaupuni was finally free. Judd accompanied him to a Boston boarding house at 312 Hanover Street. Enjoying his new freedom, several days later Keaupuni paid Judd a social visit at his bachelor rooms near Harvard.⁴⁹

As cruel as Keaupuni's long detention was, he may have recog-

nized it provided him safety from intimidation as well as no-cost food and housing during the enforced wait, unlike a bailed witness. Most importantly there was compensation of \$472 (about \$8300 today), or \$1 a day. On November 18, the U.S. Marshall gave Keaupuni a voucher not cash. To obtain cash the bearer took the paper to a second location. This method, also used to pay sailors, was exploited by "boarding house runners," similar to payday lenders or those who buy up annuities or long-term settlements. The runners gave the sailor pennies on the dollar, but it was cash, spending money immediately in hand. Keaupuni, an experienced voyager, had seen this happen and was determined not to be "taken." Judd too had seen how easily sailors' pay slipped away when he became involved with the vessel *Arctic* in September 1863.⁵⁰ Consequently, when Keaupuni expressed fear his money would disappear, Judd agreed to act as banker. Judd parsimoniously settled Keaupuni's accumulated debts, examining each bill. He refused one debtor who tried to increase a bill of \$19.47 to \$40, for example. Judd purchased a New York to San Francisco steamer ticket, which took a very big slice of Keaupuni's nest egg. Even a frugal steerage passage was \$125, almost a quarter of his witness fees. Judd remembered that the Austin family would soon be returning to Hawai'i, and took Keaupuni to meet James W. Austin. Austin and Keaupuni were about the same age and, Judd wrote his father, the three men had "quite a kamailio" [discussion] in Hawaiian. The men worked out a plan to keep the nest egg intact while getting Keaupuni to Hawai'i from California. In steerage, as at the boarding house, Keaupuni would have no secure place to keep so much cash. Austin agreed to take over the banker function during the trip to Hawai'i. Additionally, Austin would "hire" Keaupuni as a servant for the San Francisco-Honolulu voyage, assuring him a no-cost passage as the equivalent of crew, and pay him \$25 as proof. Keaupuni, using the unexpected \$25, decided to pay Judd for his services as agent, making him Judd's first Hawai'i client. Although "loath to receive it," Judd wrote home "Joe seemed delighted to be able to pay me . . ."⁵¹

On November 21, 1863, the Austin family and Keaupuni set out from Boston for New York,⁵² where on November 23 they boarded the Steamer *Champion* for San Francisco with a stop in Aspinwall, Panama.⁵³ In San Francisco, the group transferred to the *Comet*. Fifteen days later, on January 8, 1864, they arrived in Honolulu.⁵⁴

Thinking to keep Keaupuni safe in Hawai'i, A. F. Judd wrote his father recommending the sailor for work in the family businesses. The Judds tried several endeavors to support themselves and to stay in the Islands after the ABCFM withdrew financial support from the mission. The family grew sugar cane at Kualoa, O'ahu, with Hawaiian workers. A fertilizer business mining *kūkae manu* [guano] from Pacific atolls was another venture. Frank boosted Keaupuni as a potential employee: "He is an honest, faithful and intelligent man. If he is willing to do farm work he will be a good fellow for Kualoa and certainly a splendid man for the kukaemanu business."⁵⁵ The admiration was mutual. Shortly after Keaupuni's return to the islands, G. P. Judd wrote his son that "... Maui has been to the house and made your mother a long visit. He is full of your praise."⁵⁶

On December 12, 1863, Judd received his own payment from the court for his work as translator, \$39.75 (about \$700). Judd began wrapping up his time in America, preparing for his return to Hawai'i, buying gifts for family, making last chance visits to places like Barnum's Museum, and packing crates of books and belongings to ship home. On April 4, 1864, he boarded the same steamer that had carried the Austin family and Keaupuni to San Francisco, and by May 31 he was home with family.⁵⁷

Although the trials were a major event in Keaupuni's and Judd's lives, they were barely news in Hawai'i. Under the cover name "Nuu-anu," A. F. Judd wrote two notes for the *Pacific Commercial Advertiser* noting the role of "a kanaka from Maui" in Cook's guilty plea⁵⁸ and Kelley's trial,⁵⁹ never mentioning his own work as translator. More important to the Hawai'i news cycle was the death of Kamehameha IV, on November 30, 1863, and the subsequent state funeral, followed by the installation of Kamehameha V and the events surrounding his call for a revised constitution.

The story of Zeno Kelley and the law had one more twist. Kelley continued to look for a way around his conviction. He did serve several years of his sentence, but began campaigning for a presidential pardon. An October 24, 1864, request was refused.⁶⁰ By late February 1865, he had obtained a pardon recommendation to President Lincoln submitted by Representative Thomas Dawes Eliot, a member of congress from Massachusetts.⁶¹ Richard Dana had fought too hard for this conviction not to oppose a pardon. Using the most modern tech-

nology, he telegraphed Attorney General Speed in February: "Newspapers report probable pardon of Zeno Kelley—slave trader. If true, let it be stopped until I am heard from. Shall write by next mail."⁶² In a similar case where Representative Eliot had intervened, Dana had written his frustration that Eliot, without full understanding of the circumstances or facts, simply was responding to constituent requests. Dana's frustration at seeing his work undone was clear. If pardons were to be granted so easily, "It is useless to obtain convictions in such cases."⁶³ Perhaps in response to the telegram, Lincoln requested that the majority of the Massachusetts delegation agree to the request. This apparently happened because on March 3, Lincoln instructed Attorney General James Speed to draw up a pardon for Kelley.⁶⁴ By mid-March, news circulated that Kelley had been pardoned.⁶⁵

Based on the Eliot correspondence and instructions from Lincoln to proceed, together with the earlier news article mentioned by Dana,⁶⁶ it has been previously stated that President Lincoln pardoned Zeno Kelley in 1865.⁶⁷ In reality, Lincoln's assassination on April 14, 1865, halted the pardon's completion. Vice-President Andrew Johnson, determined to strike a different persona on assuming the presidency, suspended the pardon when it surfaced as unfinished business in the aftermath of Lincoln's death.⁶⁸ Undeterred, Kelley picked up the campaign after President Johnson was securely in office. Kelley managed to get a former attorney general for Massachusetts, six Massachusetts congressional representatives, the jail physician, and others to sign a pardon request to President Johnson. Dana withdrew his objections to the pardon.⁶⁹ Leveraging the verdict made possible by Keaupuni and Judd, Dana had extracted a last price from Zeno Kelley. Among the justifications for the pardon was that Kelley "has voluntarily given such information to the United States Attorney for the said District as has materially aided the cause of justice. . ."⁷⁰

In 1865 and 1866, Dana pursued indictments against several actors in the *Tahmaroo* incident, most likely using information now provided by Kelley. In early March 1865, three New Bedford residents pled guilty to involvement and paid fines.⁷¹ On May 27, 1865, Antoine Thomas was arrested and pled guilty to aiding in fitting out the *Tahmaroo*, and for enticing witnesses with bribes to leave Boston and avoid the original trials.⁷² Additionally in October 1866, attorney Andros Milton, by then a prominent citizen of California, was

indicted on charges of obstruction of justice and bribing a witness, but appears not to have been prosecuted.⁷³ Lastly, December 1866, Captain Jabez Hathaway was reindicted, but again did not go to trial.⁷⁴ Although Captain Hathaway may appear to have escaped justice, his reputation and finances were ruined as were Kelley's with both ending in debtor's court.⁷⁵

Despite initial attempts to differentiate himself from what some saw as President Lincoln's overly-generous use of the pardon, eventually, in the post-war era of forgiveness, President Johnson gave out many pardons in the interest of healing the country. He even "boasted that he had granted more pardons than any other living man."⁷⁶ Among the pardons was one for Zeno Kelley, signed on November 10, 1866.⁷⁷ It does not appear news of the early release of the man whose conviction had cost Keaupuni 472 days in the Boston jail reached Hawai'i.

Of law-abiding Hawaiian sailor Keaupuni, Joe Maui, we know no more.

NOTES

- ¹ For more on whaling and Hawaiians see Susan A. Lebo, "A Local Perspective of Hawai'i's Whaling Economy: Whale Traditions and Government Regulation of the Kingdom's Native Seamen and Whale Fishery," *Interdisciplinary Journal of Maritime Studies*, 2010, <http://ijms.nmdl.org/article/view/5805>.
- ² Warren S. Howard, *American Slavers and the Federal Law, 1837-1862*, Appendix A and B (Berkeley: U of California P, 1963), 213-235.
- ³ "Voyages of Tahmaroo," *American Offshore Whaling Voyages* nmdl.org/aowv/whvoyage.cfm?VesselNumber=659.
- ⁴ "Marine Journal," *F*, Nov. 1, 1853, 80.
- ⁵ "Marine Journal," *F*, May 14, 1859, 40.
- ⁶ "Voyages of Tahmaroo"
- ⁷ Albert F. Judd to Gerrit P. Judd, Oct. 25, 1863, Judd Collection, MS Group 70 Box 27.7.34, BPBM.
- ⁸ "Crew Lists of Vessels Sailed," "Last Report," *Whalemen's Shipping List and Merchants' Transcript*, Jul. 10, 1860, 2-3; *Boston Evening Transcript*, Jan. 17, 1862, 2.
- ⁹ Isaac Clark to Abraham Lincoln, Apr. 10, 1861, *Abraham Lincoln Papers at the Library of Congress*, Manuscript Division (Washington, D.C.: American Memory Project, [2000-02]), memory.loc.gov/ammem/alhtml/alhome.html
- ¹⁰ Lawrence Lader, *The Bold Brahmins*, (New York: Dutton & Co, 1961). Chap. 12, 13, 15.
- ¹¹ Lader, *Bold Brahmins*, 214

- ¹² Richard Henry Dana, *Two Years Before the Mast* (New York: Random House, 1964), chap. 19.
- ¹³ A. F. Judd to G. P. Judd, Oct. 25, 1863, Judd Collection, BPBM.
- ¹⁴ Gerrit P. Judd to Albert F. Judd, Feb. 26, 1861, Judd Collection, MS Group 70 Box 27.7.10, BPBM.
- ¹⁵ G. P. Judd to A. F. Judd, Mar. 30, 1862, Judd Collection, MS Group 70 Box 27.7.19, BPBM.
- ¹⁶ Albert F. Judd, Diary, 1863, Judd Collection, MS Group 70 Box 43.7, BPBM.
- ¹⁷ A. F. Judd to G. P. Judd, Oct. 25, 1863, Judd Collection, BPBM.
- ¹⁸ "Voyages of Tahmaroo."
- ¹⁹ *Passenger Lists of Vessels Arriving at Boston, Massachusetts, 1820-1891*. Micro-publication M277. RGo36. 115 rolls. National Archives, Washington, D.C. via Ancestry.com.
- ²⁰ A. F. Judd to G. P. Judd, Nov. 19, 1863, Judd Collection, MS Group 70 Box 27.7.35, BPBM.
- ²¹ A. F. Judd, Diary, 1863, Judd Collection, BPBM.
- ²² William Woolsey Johnson to A. F. Judd, Jun. 6, 1864, Judd Collection, MS Group 70 Box 53.17.5, BPBM.
- ²³ "More Slave Traders Arrested in New Bedford," *Sacramento Daily Union*, Feb. 17, 1862, 2. Reprint *Boston Journal* January 17, 1862. Sources spell Zeno's last name Kelley or Kelly. Based on frequency in legal documents and news reports, Kelley is used here.
- ²⁴ "More Arrests," *Whalemens' Shipping List & Merchants' Transcript*, Jan. 21, 1862, 2; *National Republican*, Apr. 3, 1862, 3.
- ²⁵ "Discharged," *Boston Evening Transcript*, Feb. 22, 1862, 2.
- ²⁶ "The Tahmaroo Case," *Whalemens' Shipping List & Merchants' Transcript*, Feb. 24, 1862, 2.
- ²⁷ "The Slave Case," *Boston Evening Transcript*, Jun. 26, 1862, 4.
- ²⁸ "Boston Post Court Record," *Boston Post*, Jun. 29, 1862, 4.
- ²⁹ "A Witness Absconded," *Boston Evening Transcript*, Jun. 28, 1862, 4.
- ³⁰ "U. S. District Court," *Whalemens'*, Jul. 1, 1862, 2.
- ³¹ "Boston Post Court Record," *Boston Post*, Apr. 9, 1863, 4.
- ³² "Boston Post Court Record," *Boston Post*, Apr. 16, 1863, 4.
- ³³ *U. S. v. Kelly [sic]*, District Court Massachusetts, Jul. 1863, Case No. 15,515, 2 Spr. 77, 26 F.Cas. 697.
- ³⁴ "Waifs from the Bay State," *PCA*, Aug. 20, 1863, 2.
- ³⁵ "Boston Post Court Record," *Boston Post*, Jun. 5, 1863, 4.
- ³⁶ "Another Slaver Case," *Boston Evening Transcript*, Jun. 5, 1863, 1.
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- ³⁸ "Boston Post Court Record," *Boston Post*, Jun. 10, 1863, 4.
- ³⁹ "An Alleged Slave Trader," *Boston Daily Advertiser*, Sept. 26, 1863, 1.
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- ⁴¹ E. W. Morton to A. F. Judd, Oct. 19, 1863, Judd Collection, MS Group 70 Box 26.5.38, BPBM.
- ⁴² A. F. Judd to G. P. Judd, Oct. 25, 1863, Judd Collection, BPBM.

- ⁴³ A. F. Judd to G. P. Judd, Oct. 25, 1863, Judd Collection, BPBM.
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- ⁴⁸ A. F. Judd to G. P. Judd, Nov. 19, 1863, Judd Collection, MS Group 70 Box 27.7.35, BPBM.
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- ⁵⁴ "Port of Honolulu, Arrivals," *F*, Feb. 5, 1864.
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- ⁵⁶ G. P. Judd to A. F. Judd, Jan. 15, 1864, Judd Collection, MS Group 70 Box 27.6.36, BPBM.
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- ⁵⁹ "A Native Hawaiian in a Boston Court," *PCA*, Jan. 7, 1864, 2.
- ⁶⁰ John William Starr, Jr., *Further light on Lincoln's Last Day*, (Harrisburg, privately printed, 1930), 70–71
- ⁶¹ Roy P. Basler, ed., *The Collected Works of Abraham Lincoln, 1864–1865*, (New Brunswick: Rutgers University Press, 1955) vol. 8, 323–324.
- ⁶² R. H. Dana, Jr. to James Speed, Feb. 1865, Abraham Lincoln Papers, Library of Congress, Series 1, General Correspondence, 1833–1916, memory.loc.gov/ammem/alhtml/malhome.html
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- ⁶⁵ *Massachusetts Spy*, Mar. 15, 1865, 4.
- ⁶⁶ *New York Herald*, Jun. 2, 1865.
- ⁶⁷ Michael Burlingame, *The Inner World of Abraham Lincoln* (Urbana: U of Illinois P, c 1994) 45–6.
- ⁶⁸ John William Starr, Jr., *Further light on Lincoln's last day*, 71; "Not to be Pardoned," *Boston Herald*, Jun. 1, 1865, 4.
- ⁶⁹ "Pardon of an Alleged Slave Trader," *Boston Journal*, Nov. 9, 1866, 2; "The Case of Zeno Kelley," *Boston Herald*, Nov. 10, 1866, 4.
- ⁷⁰ Congressional Information Service, *Presidential executive orders and proclamations, 1866-44-136–1866-44-188* (Bethesda: CIS Microfiche, 1987) AN 1866-44-164.
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- ⁷² "Another of the Slave-Traders," *New York Times*, Jun. 4, 1865; "Arrest for Implication in the Slave Trade," *Boston Herald*, May 30, 1865, 2.

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⁷⁴ U.S. v. Jabez Hathaway, District Court Massachusetts, Dec. 1866, Case No. 00023.

⁷⁵ U.S. v. Jabez Hathaway, District Court Massachusetts, Mar. 1864, Case No. 00041; U. S. v. Kelley and Trustees, District Court Massachusetts, Sept. 1864, Case No. 00017.

⁷⁶ "Pardons by President Johnson," *Adams Sentinel*, Nov. 27, 1866, 4.

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